

Introduced by Senator WolkDecember 3, 2012

An act to amend Sections 53395, 53395.1, 53395.2, 53395.3, 53395.4, 53395.5, 53395.6, 53395.7, 53395.10, 53395.11, 53395.12, 53395.13, 53395.14, 53395.16, 53395.17, 53395.19, 53395.20, 53396, 53397.1, and 53397.2 of, to repeal Sections 53395.22, 53395.23, 53395.24, 53395.25, 53397.4, 53397.5, 53397.6, and 53397.7 of, and to repeal and add Section 53395.21 of, the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 33, as introduced, Wolk. Infrastructure financing districts: voter approval: repeal.

(1) Existing law authorizes a legislative body, as defined, to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities, upon voter approval. Existing law authorizes an infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and agreement of affected taxing entities, as defined.

This bill would revise and recast the provisions governing infrastructure financing districts. The bill would eliminate the requirement of voter approval for creation of the district and for bond issuance, and would authorize the legislative body to create the district subject to specified procedures. The bill would instead authorize a newly created public financing authority, consisting of 5 members, 3 of whom are members of the city council or board of supervisors that established the district, and 2 of whom are members of the public, to adopt the infrastructure financing plan, subject to approval by the legislative body,

and issue bonds by majority vote of the authority by resolution. The bill would authorize a public financing authority to enter into joint powers agreements with affected taxing entities with regard to nontaxing authority or powers only. The bill would authorize a district to finance specified actions and projects, and prohibit the district from providing financial assistance to a vehicle dealer or big box retailer, as defined. The bill would create a public accountability committee, as specified, to review the actions of the public financing authority.

(2) Existing law requires that an infrastructure financing plan created by a legislative body include a date on which the district will cease to exist, which shall not be more than 30 years from the date on which the ordinance forming the district is adopted.

This bill instead would specify that the date on which the district would cease to exist would not be more than 40 years from the date on which the public financing authority adopted the resolution adopting the infrastructure financing plan. The bill would also impose additional reporting requirements after the adoption of an infrastructure financing plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 53395 of the Government Code is
2 amended to read:
3 53395. (a) The Legislature finds and declares that the state
4 and federal governments have withdrawn in whole or in part from
5 their former role in financing ~~major, regional, or communitywide~~
6 infrastructure, including highways and interchanges, sewage
7 treatment and water reclamation works, water supply and treatment
8 works, flood control and drainage works, schools, libraries, parks,
9 parking facilities, open space, and seismic retrofit and rehabilitation
10 of public facilities.
11 (b) The Legislature further finds and declares that the methods
12 available to local agencies to finance public works often place an
13 undue and unfair burden on buyers of new homes, especially for
14 public works that benefit the broader community.
15 (c) The Legislature further finds and declares that the absence
16 of practical and equitable methods for financing ~~both regional and~~
17 ~~local~~ public works leads to a declining standard of public works,

1 a reduced quality of life and decreased safety for affected citizens,
2 increased objection to otherwise desirable development, and
3 excessive costs for homebuyers.

4 *(d) The Legislature further finds and declares that because*
5 *California's disadvantaged communities, as defined in Section*
6 *75005 of the Public Resources Code, may not be beneficiaries of*
7 *quality public works, these communities are neglected and, thus,*
8 *isolated from and deprived of the basic facilities needed for public*
9 *health and safety.*

10 ~~(d)~~
11 *(e) The Legislature further finds and declares that it is equitable*
12 *and in the public interest to provide alternative procedures for*
13 *financing public works and services needed to meet the needs of*
14 *new housing, disadvantaged communities, and other development*
15 *projects.*

16 *(f) The Legislature further finds and declares that it is in the*
17 *public interest to develop a mechanism that allows public agencies*
18 *to jointly dedicate their revenues to projects that support*
19 *sustainable communities.*

20 *(g) The Legislature further finds and declares that infrastructure*
21 *financing districts implement and fulfill the intent of Article 2*
22 *(commencing with Section 53395.10) and of Article XIII B of the*
23 *California Constitution, and are consistent with the conclusion of*
24 *California courts that tax increment revenues are not "proceeds*
25 *of taxes" for purposes of Article XIII B of the California*
26 *Constitution. The allocation and payment to a district of the portion*
27 *of taxes specified in this section for the purpose of paying principal*
28 *of, or interest on, loans, advances, or indebtedness incurred for*
29 *facilities or the cost of acquisition and construction of facilities*
30 *under this section shall not be deemed the receipt by a district of*
31 *proceeds of taxes levied by or on behalf of the district within the*
32 *meaning or for the purposes of Article XIII B of the California*
33 *Constitution, nor shall this portion of taxes be deemed receipt of*
34 *proceeds of taxes by, or an appropriation subject to limitation of,*
35 *any other public body within the meaning or for the purposes of*
36 *Article XIII B of the California Constitution or any statutory*
37 *provision enacted in the implementation of Article XIII B of the*
38 *California Constitution. The allocation and payment to a district*
39 *of this portion of taxes shall not be deemed the appropriation by*
40 *a district of proceeds of taxes levied by or on behalf of a district*

1 *within the meaning or for the purposes of Article XIII B of the*
2 *California Constitution.*

3 SEC. 2. Section 53395.1 of the Government Code is amended
4 to read:

5 53395.1. Unless the context otherwise requires, the definitions
6 contained in this article shall govern the construction of this
7 chapter.

8 (a) “Affected taxing entity” means any governmental taxing
9 agency which levied or had levied on its behalf a property tax on
10 all or a portion of the property located in the proposed district in
11 the fiscal year prior to the designation of the district, but not
12 including any county office of education, school district, or
13 community college district.

14 (b) “City” means a city, a county, or a city and county.

15 (c) “Debt” means any binding obligation to repay a sum of
16 money, including obligations in the form of bonds, certificates of
17 participation, long-term leases, loans from government agencies,
18 or loans from banks, other financial institutions, private businesses,
19 or individuals.

20 (d) “Designated official” means the city engineer or other
21 appropriate official designated pursuant to Section 53395.13.

22 (e) (1) “District” means an infrastructure financing district.

23 (2) An infrastructure financing district is a “district” within the
24 meaning of Section 1 of Article XIII A of the California
25 Constitution.

26 (f) “Infrastructure financing district” means a legally constituted
27 *public and corporate* governmental entity *separate and distinct*
28 *from the city that established it* pursuant to this chapter for the sole
29 purpose of financing public facilities. *An infrastructure financing*
30 *district shall be a “local agency” for purposes of Chapter 9*
31 *(commencing with Section 54950).*

32 (g) “Landowner” or “owner of land” means any person shown
33 as the owner of land on the last equalized assessment roll or
34 otherwise known to be the owner of the land by the legislative
35 body. The legislative body has no obligation to obtain other
36 information as to the ownership of land, and its determination of
37 ownership shall be final and conclusive for the purposes of this
38 chapter. A public agency is not a landowner or owner of land for
39 purposes of this chapter, unless the public agency owns all of the
40 land to be included within the proposed district.

(h) “Legislative body” means the city council or board of supervisors.

(i) “*Public capital facilities of communitywide significance*” means facilities that benefit all areas within the district or serve or are made available to those areas.

(j) “*Public financing authority*” means the legislative body of the infrastructure financing district established pursuant to this chapter. The public financing authority shall be comprised of five people, three of whom shall be members of the city council or board of supervisors that established the district pursuant to this chapter and two of whom shall be public members. The three members of the city council or board of supervisors shall appoint the two public members in accordance with Chapter 11 (commencing with Section 54970) of Part 1 of Division 2 of Title 5.

SEC. 3. Section 53395.2 of the Government Code is amended to read:

53395.2. (a) The revenues available pursuant to Article 3 (commencing with Section 53396) may be used directly for work allowed pursuant to Section 53395.3, may be accumulated for a period not to exceed five years to provide a fund for that work, may be pledged to pay the principal of, and interest on, bonds issued pursuant to Article 4 (commencing with Section 53397), or may be pledged to pay the principal of, and interest on, bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) or the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311)), the proceeds of which have been or will be used entirely for allowable purposes of the district. The revenue of the district may also be advanced for allowable purposes of the district to an ~~Integrated Financing District~~ *integrated financing district* established pursuant to Chapter 1.5 (commencing with Section 53175), in which case the district may be party to a reimbursement agreement established pursuant to that chapter. The revenues of the district may also be committed to paying for any completed public facility acquired pursuant to Section 53395.3 over a period of time, including the payment of a rate of interest not to exceed the bond buyer index rate on the day that the agreement to repay is entered into by the ~~city~~ *district*.

1 (b) ~~The legislative body~~ *public financing authority* may enter
2 into an agreement with any affected taxing entity providing for
3 the construction of, or assistance in, financing ~~public facilities~~
4 *activities pursuant to Section 53395.3.*

5 SEC. 4. Section 53395.3 of the Government Code is amended
6 to read:

7 53395.3. (a) A district may finance (1) the purchase,
8 construction, expansion, improvement, seismic retrofit, or
9 rehabilitation of any real or other tangible property with an
10 estimated useful life of 15 years or longer ~~which~~ *that* satisfies the
11 requirements of subdivision (b), (2) may finance planning and
12 design work ~~which~~ *that* is directly related to the purchase,
13 construction, expansion, or rehabilitation of that property ~~and~~, (3)
14 the costs described in Sections 53395.5; and 53396.5, *and (4) may*
15 *contribute to the cost of maintaining facilities that are financed*
16 *pursuant to subdivision (b).* A district may only finance the
17 purchase of facilities for which construction has been completed,
18 as determined by the legislative body. The facilities need not be
19 physically located within the boundaries of the district. ~~A district~~
20 ~~may~~ *Except as specifically provided in this section, a district shall*
21 not finance routine maintenance, repair work, or the costs of
22 ongoing operation or providing services of any kind. *A district*
23 *shall not compensate the members of the legislative body of the*
24 *city or the district for any activities undertaken pursuant to this*
25 *chapter.*

26 (b) The district shall finance only *structural or nonstructural*
27 *public capital facilities of communitywide significance, which*
28 ~~provide significant benefits to an area larger than the area of the~~
29 ~~district,~~ including, but not limited to, all of the following:

30 (1) Highways, interchanges, ramps and bridges, arterial streets,
31 parking facilities, and transit facilities.

32 (2) Sewage treatment and water reclamation plants and
33 interceptor pipes.

34 (3) *Facilities and watershed lands used* for the collection and
35 treatment of water for urban uses.

36 (4) ~~Flood control levees and~~ *management including levees,*
37 *bypasses, dams, retention basins, and drainage channels.*

38 (5) Child care facilities.

39 (6) Libraries.

1 (7) Parks, recreational facilities, ~~and~~ open space, *and habitat*
2 *restoration.*

3 (8) Facilities for the transfer and disposal of solid waste,
4 including transfer stations and vehicles.

5 (c) *The district shall be a local agency within the meaning of*
6 *subdivision (d) of Section 33459 of the Health and Safety Code*
7 *and may finance any actions necessary to implement the Polanco*
8 *Redevelopment Act (Article 12.5 (commencing with Section 33459)*
9 *of Chapter 4 of Part 1 of Division 24 of the Health and Safety*
10 *Code).*

11 (d) *The district may finance any project that implements a transit*
12 *priority project pursuant to Section 65470, regional transportation*
13 *plan, or other projects that are consistent with the general use*
14 *designation, density, building intensity, and applicable policies*
15 *specified for the project area in either a sustainable communities*
16 *strategy or an alternative planning strategy, for which the State*
17 *Air Resources Board, pursuant to Chapter 2.5 (commencing with*
18 *Section 65080) of Division 2 of Title 7, has accepted a metropolitan*
19 *planning organization's determination that the sustainable*
20 *communities strategy or the alternative planning strategy would,*
21 *if implemented, achieve the greenhouse gas emission reduction*
22 *targets.*

23 ~~(e)~~

24 (e) Any district ~~which~~ that constructs dwelling units shall set
25 aside not less than 20 percent of those units to increase and improve
26 the community's supply of low- and moderate-income housing
27 available at an affordable housing cost, as defined by Section
28 50052.5 of the Health and Safety Code, to persons and families of
29 low- and moderate-income, as defined in Section 50093 of the
30 Health and Safety Code.

31 (f) *Projects financed pursuant to this section that involve*
32 *construction, alteration, demolition, installation, or repair work*
33 *and dwelling units constructed by a district pursuant to this section,*
34 *shall be subject to Chapter 1 (commencing with Section 1720) of*
35 *Part 7 of Division 2 of the Labor Code.*

36 SEC. 5. Section 53395.4 of the Government Code is amended
37 to read:

38 53395.4. (a) A district ~~may shall not include provide~~ any
39 ~~portion of a redevelopment project area which is or has been~~
40 ~~previously created pursuant to Part 1 (commencing with Section~~

1 33000) of Division 24 of the Health and Safety Code, whether the
2 creation is or was proper or improper. A redevelopment project
3 area may not include any portion of a district created pursuant to
4 this chapter form of financial assistance to a vehicle dealer or a
5 big box retailer, or a business entity that sells or leases land to a
6 vehicle dealer or big box retailer, that is relocating from the
7 territorial jurisdiction of one local agency to the territorial
8 jurisdiction of another local agency, but within the same market
9 area, as those terms are used in Section 53084.

10 (b) A district may finance only the facilities ~~or services~~
11 authorized in this chapter to the extent that the facilities ~~or services~~
12 are in addition to those provided in the territory of the district
13 before the district was created. The additional facilities ~~or services~~
14 may not supplant facilities ~~or services~~ already available within that
15 territory when the district was created but may supplement those
16 facilities ~~and services as needed to serve new developments,~~
17 *rehabilitate, upgrade, or make more sustainable those facilities.*

18 (c) A district may include areas ~~which~~ that are not contiguous.

19 SEC. 6. Section 53395.5 of the Government Code is amended
20 to read:

21 53395.5. It is the intent of the Legislature that the ~~area of the~~
22 ~~districts created be substantially undeveloped, and the~~
23 establishment of a district should not ordinarily lead to the removal
24 of existing dwelling units. If, however, any dwelling units are
25 proposed to be removed or destroyed in the course of private
26 development or public works construction within the area of the
27 district, the legislative body shall do all of the following:

28 (a) Within four years of the removal or destruction, cause or
29 require the construction or rehabilitation, for rental or sale to
30 persons or families of low or moderate income, of an equal number
31 of replacement dwelling units at affordable housing cost, as defined
32 in Section 50052.5 of the Health and Safety Code, within the
33 territory of the district if the dwelling units removed were inhabited
34 by persons or families of low or moderate income, as defined in
35 Section 50093 of the Health and Safety Code.

36 (b) Within four years of the removal or destruction, cause or
37 require the construction or rehabilitation, for rental or sale to
38 persons of low or moderate income, a number of dwelling units
39 which is at least one unit but not less than 20 percent of the total
40 dwelling units removed at affordable housing cost, as defined in

1 Section 50052.5 of the Health and Safety Code, within the territory
2 of the district if the dwelling units removed or destroyed were not
3 inhabited by persons of low or moderate income, as defined in
4 Section 50093 of the Health and Safety Code.

5 (c) Provide relocation assistance and make all the payments
6 required by Chapter 16 (commencing with Section 7260) of
7 Division 7 of Title 1, to persons displaced by any public or private
8 development occurring within the territory of the district. This
9 displacement shall be deemed to be the result of public action.

10 (d) Ensure that removal or destruction of any dwelling units
11 occupied by persons or families of low or moderate income not
12 take place unless and until there are suitable housing units, at
13 comparable cost to the units from which the persons or families
14 were displaced, available and ready for occupancy by the residents
15 of the units at the time of their displacement. The housing units
16 shall be suitable to the needs of these displaced persons or families
17 and shall be decent, safe, sanitary, and otherwise standard
18 dwellings.

19 SEC. 7. Section 53395.6 of the Government Code is amended
20 to read:

21 53395.6. Any action or proceeding to attack, review, set aside,
22 void, or annul the creation of a district; *or* adoption of an
23 infrastructure financing plan, including a division of taxes
24 thereunder, ~~or an election pursuant to this chapter~~ shall be
25 commenced within 30 days after the enactment of the ordinance
26 ~~creating the district~~ *date the legislative body adopted the resolution*
27 *adopting the infrastructure financing plan* pursuant to Section
28 ~~53395.23~~ 53395.20. Consistent with the time limitations of this
29 section, such an action or proceeding with respect to a division of
30 taxes under this chapter may be brought pursuant to Chapter 9
31 (commencing with Section 860) of Title 10 of Part 2 of the Code
32 of Civil Procedure, except that Section 869 of the Code of Civil
33 Procedure shall not apply.

34 SEC. 8. Section 53395.7 of the Government Code is amended
35 to read:

36 53395.7. An action to determine the validity of the issuance
37 of bonds pursuant to this chapter may be brought pursuant to
38 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
39 the Code of Civil Procedure. However, notwithstanding the time
40 limits specified in Section 860 of the Code of Civil Procedure, the

1 action shall be commenced within 30 days after ~~adoption of the~~
2 ~~resolution pursuant to Section 53397.6 providing for the date the~~
3 *legislative body adopted the resolution adopting the infrastructure*
4 *financing plan authorizing the issuance of the bonds pursuant to*
5 *Section 53397.1*, if the action is brought by an interested person
6 pursuant to Section 863 of the Code of Civil Procedure. Any appeal
7 from a judgment in that action or proceeding shall be commenced
8 within 30 days after entry of judgment.

9 SEC. 9. Section 53395.10 of the Government Code is amended
10 to read:

11 53395.10. A legislative body of a city may designate one or
12 more proposed infrastructure financing districts pursuant to this
13 chapter. Proceedings for the establishment of a district shall be
14 instituted by the adoption of a resolution of intention to establish
15 the proposed district and shall do all of the following:

16 (a) State that an infrastructure financing district is proposed to
17 be established under the terms of this chapter and describe the
18 boundaries of the proposed district, which may be accomplished
19 by reference to a map on file in the office of the clerk of the city.

20 (b) State the type of public facilities *and development* proposed
21 to be financed *or assisted* by the district. ~~The district may only~~
22 ~~finance public facilities authorized by in accordance with Section~~
23 ~~53395.3.~~

24 (c) *State the need for the district and the goals the district*
25 *proposes to achieve.*

26 (e)

27 (d) State that incremental property tax revenue from the city
28 and some or all affected taxing entities within the district, *if*
29 *approved by resolution pursuant to Section 53395.19*, may be used
30 to ~~finance these public facilities~~ *implement the plan adopted*
31 *pursuant to Section 53395.14.*

32 (d)

33 (e) Fix a time and place for a public hearing on the proposal.

34 SEC. 10. Section 53395.11 of the Government Code is amended
35 to read:

36 53395.11. The legislative body shall direct the clerk to mail a
37 copy of the resolution of intention to create the district to each
38 owner of land within the district *and to each affected taxing entity.*

39 SEC. 11. Section 53395.12 of the Government Code is amended
40 to read:

1 53395.12. (a) The legislative body shall direct the clerk to
2 ~~mail post~~ a copy of the resolution to each affected taxing entity of
3 *intention to create the district in an easily identifiable and*
4 *accessible location on the legislative body's Internet Web site.*

5 (b) *At the conclusion of the public hearing scheduled pursuant*
6 *to subdivision (e) of Section 53395.10, the legislative body of the*
7 *city may adopt a resolution establishing the infrastructure*
8 *financing district based upon a finding that (1) the goals of the*
9 *district are consistent with the general plan; and (2) the financing*
10 *programs undertaken by the district are an efficient means of*
11 *implementing the goals of the district.*

12 SEC. 12. Section 53395.13 of the Government Code is amended
13 to read:

14 53395.13. After adopting the resolution pursuant to Section
15 ~~53395.10~~ 53395.12, the legislative body shall *send a copy of the*
16 *resolution to the public financing authority. Upon receipt of the*
17 *resolution, the public financing authority shall designate and direct*
18 *the city engineer or other appropriate official to prepare an*
19 *infrastructure plan pursuant to Section 53395.14.*

20 SEC. 13. Section 53395.14 of the Government Code is amended
21 to read:

22 53395.14. ~~After receipt of a copy of the resolution of intention~~
23 ~~to establish a district, the~~ *The* official designated pursuant to
24 Section 53395.13 shall prepare a proposed infrastructure financing
25 plan. The infrastructure financing plan shall be consistent with the
26 general plan of the city within which the district is located and
27 shall include all of the following:

28 (a) A map and legal description of the proposed district, which
29 may include all or a portion of the district designated by the
30 legislative body in its resolution of intention.

31 (b) A description of the public facilities ~~required to serve, or~~
32 ~~assistance, that benefits or serves the development~~ the development
33 proposed in the area of the district including those to be provided
34 by the private sector, those to be provided by governmental entities
35 without assistance under this chapter, those public improvements
36 and facilities to be financed with assistance from the proposed
37 district, and those to be provided jointly. The description shall
38 include the proposed location, timing, and costs of the public
39 improvements and facilities.

1 (c) ~~A~~ *If funding from affected taxing entities is incorporated*
2 *into the financing plan, a finding that the public facilities are of*
3 ~~communitywide significance and~~ provide significant benefits to
4 an area larger than the area of the district.

5 (d) A financing section, which shall contain all of the following
6 information:

7 (1) A specification of the maximum portion of the incremental
8 tax revenue of the city and of each affected taxing entity, *if any*,
9 proposed to be committed to the district for each year during which
10 the district will receive incremental tax revenue. The portion need
11 not be the same for all affected taxing entities. The portion may
12 change over time.

13 (2) A projection of the amount of tax revenues expected to be
14 received by the district in each year during which the district will
15 receive tax revenues, including an estimate of the amount of tax
16 revenues attributable to each affected taxing entity for each year.

17 (3) A plan for financing the public facilities to be assisted by
18 the district, including a detailed description of any intention to
19 incur debt.

20 (4) A limit on the total number of dollars of taxes ~~which that~~
21 may be allocated to the district pursuant to the plan.

22 (5) A date on which the district will cease to exist, by which
23 time all tax allocation to the district will end. The date shall not
24 be more than ~~30~~ 40 years from the date ~~on which the ordinance~~
25 ~~forming the district is adopted~~ *the public financing authority*
26 *adopted the resolution adopting the infrastructure financing plan*
27 *pursuant to Section 53395.23 53395.20.*

28 (6) An analysis of the costs to the city of providing facilities
29 and services to the area of the district while the area is being
30 developed and after the area is developed. The plan shall also
31 include an analysis of the tax, fee, charge, and other revenues
32 expected to be received by the city as a result of expected
33 development in the area of the district.

34 (7) An analysis of the projected fiscal impact of the district and
35 the associated development upon each affected taxing entity.

36 (8) A plan for financing any potential costs that may be incurred
37 by reimbursing a developer of a project that is both located entirely
38 within the boundaries of that district and qualifies for the Transit
39 Priority Project Program, pursuant to Section 65470, including
40 any permit and affordable housing expenses *and additional*

1 *expenses related to the project or the developer of a project that*
2 *implements a transit priority project.*

3 (e) If any dwelling units occupied by persons or families of low
4 or moderate income are proposed to be removed or destroyed in
5 the course of private development or public works construction
6 within the area of the district, a plan providing for replacement of
7 those units and relocation of those persons or families consistent
8 with the requirements of Section 53395.5.

9 (f) *The goals the district proposes to achieve by financing public*
10 *facilities.*

11 (g) *The goals the district proposes to achieve by assisting the*
12 *development described in paragraph (8) of subdivision (d).*

13 (h) *If funding from affected taxing entities is included in the*
14 *plan, the creation of the public accountability committee, pursuant*
15 *to Section 53395.21.*

16 SEC. 14. Section 53395.16 of the Government Code is amended
17 to read:

18 53395.16. The designated official shall consult with *the city*
19 *and* each affected taxing entity, and, at the request of any affected
20 taxing entity, shall meet with representatives of an affected taxing
21 entity. Any affected taxing entity may suggest revisions to the
22 plan.

23 SEC. 15. Section 53395.17 of the Government Code is amended
24 to read:

25 53395.17. ~~The legislative body~~ *public financing authority* shall
26 conduct a public hearing prior to adopting the proposed
27 infrastructure financing plan. The public hearing shall be called
28 no sooner than 60 days after the plan has been sent to each affected
29 taxing entity. In addition to the notice given to landowners and
30 affected taxing entities pursuant to Sections 53395.11 and
31 53395.12, notice of the public hearing shall be given by publication
32 not less than once a week for four successive weeks in a newspaper
33 of general circulation published in the city in which the proposed
34 district is located. The notice shall state that the district will be
35 used to finance public works, briefly describe the public works,
36 briefly describe the proposed financial arrangements, including
37 the proposed commitment of incremental tax revenue, describe
38 the boundaries of the proposed district and state the day, hour, and
39 place when and where any persons having any objections to the
40 proposed infrastructure financing plan, or the regularity of any of

1 the prior proceedings, may appear before the ~~legislative body~~
2 *public financing authority* and object to the adoption of the
3 proposed plan by the ~~legislative body~~ *public financing authority*.

4 SEC. 16. Section 53395.19 of the Government Code is amended
5 to read:

6 53395.19. (a) The ~~legislative body~~ *public financing authority*
7 shall not enact a resolution ~~proposing formation of a district and~~
8 ~~providing approving a financing plan that provides~~ for the division
9 of taxes of any affected taxing entity pursuant to Article 3
10 (commencing with Section 53396), unless a resolution approving
11 the plan has been adopted by the governing body of each affected
12 taxing entity ~~which~~ *that* is proposed to be subject to division of
13 taxes pursuant to Article 3 (commencing with Section 53396) has
14 been filed with the ~~legislative body~~ *public financing authority* at
15 or prior to the time of the hearing.

16 (b) *In the case of an affected taxing entity that is a special*
17 *district that provides fire protection services and where the county*
18 *board of supervisors is the governing authority or has appointed*
19 *itself as the governing board of the district, the plan shall be*
20 *adopted by a separate resolution approved by the district's*
21 *governing authority or governing board.*

22 ~~(b)~~
23 (c) Nothing in this section shall be construed to prevent the
24 ~~legislative body~~ *public financing authority* from amending its
25 infrastructure financing plan and adopting a resolution ~~proposing~~
26 ~~formation of forming~~ the infrastructure financing district without
27 allocation of the tax revenues of any affected taxing entity ~~which~~
28 *that* has not approved the infrastructure financing plan by resolution
29 of the governing body of the affected taxing entity.

30 (d) *A public financing authority may enter into a joint powers*
31 *agreement pursuant to Section 6500 with an affected taxing entity*
32 *to carry out the purposes of this chapter with regard to nontaxing*
33 *authority or powers only.*

34 (e) *An infrastructure financing plan that provides for the division*
35 *of taxes of any affected taxing entity shall not be implemented until*
36 *the date on which the public accountability committee is created*
37 *pursuant to Section 53395.21.*

38 SEC. 17. Section 53395.20 of the Government Code is amended
39 to read:

1 53395.20. (a) At the conclusion of the hearing, ~~the legislative~~
2 ~~body required by Section 53395.17, the public financing authority~~
3 may adopt a resolution ~~proposing adoption of adopting~~ the
4 infrastructure financing plan, as modified, and *approving the*
5 formation of the infrastructure financing district in a manner
6 consistent with ~~Section~~ *Sections 53395.10 and 53395.19*, or it may
7 abandon the proceedings. ~~If the legislative body adopts a resolution~~
8 ~~proposing formation of the district, it shall then submit the proposal~~
9 ~~to create the district to the qualified electors of the proposed district~~
10 ~~in the next general election or in a special election to be held,~~
11 ~~notwithstanding any other requirement, including any requirement~~
12 ~~that elections be held on specified dates, contained in the Elections~~
13 ~~Code, at least 90 days, but not more than 180 days, following the~~
14 ~~adoption of the resolution of formation. The legislative body shall~~
15 ~~provide the resolution of formation, a certified map of sufficient~~
16 ~~scale and clarity to show the boundaries of the district, and a~~
17 ~~sufficient description to allow the election official to determine~~
18 ~~the boundaries of the district to the official conducting the election~~
19 ~~within three business days after the adoption of the resolution of~~
20 ~~formation. The assessor's parcel numbers for the land within the~~
21 ~~district shall be included if it is a landowner election or the district~~
22 ~~does not conform to an existing district's boundaries and if~~
23 ~~requested by the official conducting the election. If the election is~~
24 ~~to be held less than 125 days following the adoption of the~~
25 ~~resolution of formation, the concurrence of the election official~~
26 ~~conducting the election shall be required. However, any time limit~~
27 ~~specified by this section or requirement pertaining to the conduct~~
28 ~~of the election may be waived with the unanimous consent of the~~
29 ~~qualified electors of the proposed district and the concurrence of~~
30 ~~the election official conducting the election~~ *The public financing*
31 *authority shall forward a copy of the plan to the legislative body*
32 *to review and approve the financing section of the plan described*
33 *in subdivision (d) of Section 53395.14. The infrastructure financing*
34 *plan shall not take effect until approved by the legislative body.*

35 (b) ~~If at least 12 persons have been registered to vote within the~~
36 ~~territory of the proposed district for each of the 90 days preceding~~
37 ~~the close of the hearing, the vote shall be by the registered voters~~
38 ~~of the proposed district, who need not necessarily be the same~~
39 ~~persons, with each voter having one vote. Otherwise, the vote shall~~
40 ~~be by the landowners of the proposed district and each landowner~~

1 who is the owner of record at the close of the protest hearing, or
2 the authorized representative thereof, shall have one vote for each
3 acre or portion of an acre of land that he or she owns within the
4 proposed district. The number of votes to be voted by a particular
5 landowner shall be specified on the ballot provided to that
6 landowner.

7 (e) ~~Ballots for the special election authorized by subdivision (a)~~
8 ~~may be distributed to qualified electors by mail with return postage~~
9 ~~prepaid or by personal service by the election official. The official~~
10 ~~conducting the election may certify the proper mailing of ballots~~
11 ~~by an affidavit, which shall be exclusive proof of mailing in the~~
12 ~~absence of fraud. The voted ballots shall be returned to the election~~
13 ~~officer conducting the election not later than the hour specified in~~
14 ~~the resolution calling the election. However, if all the qualified~~
15 ~~voters have voted, the election shall be closed.~~

16 (b) *No later than June 30 of each year after the adoption of the*
17 *infrastructure financing plan, the public financing authority shall*
18 *direct the clerk of the legislative body to mail an annual report to*
19 *each owner of land within the district and each affected taxing*
20 *entity. The public financing authority shall direct the clerk of the*
21 *legislative body to post this annual report in an easily identifiable*
22 *and accessible location on the legislative body's Internet Web site.*
23 *The annual report shall contain all of the following:*

24 (1) *A summary of the district's expenditures.*

25 (2) *A description of the progress made towards the district's*
26 *adopted goals.*

27 (3) *An assessment of the status regarding completion of the*
28 *district's public works projects.*

29 (c) *If the district fails to provide the annual report required by*
30 *subdivision (b), the district shall not spend any funds to construct*
31 *public works projects until the annual report is submitted.*

32 (d) *If the district fails to produce evidence of progress made*
33 *towards achieving its adopted goals for five consecutive years, the*
34 *district shall not spend any funds to construct any new public*
35 *works projects; provided, however, the district may complete any*
36 *public works projects that it had started. Any excess property tax*
37 *increment revenues that had been allocated for new public works*
38 *projects shall be reallocated to the affected taxing entities.*

39 SEC. 18. Section 53395.21 of the Government Code is
40 repealed.

1 ~~53395.21. (a) Except as otherwise provided in this chapter,~~
2 ~~the provisions of law regulating elections of the local agency that~~
3 ~~calls an election pursuant to this chapter, insofar as they may be~~
4 ~~applicable, shall govern all elections conducted pursuant to this~~
5 ~~chapter. Except as provided in subdivision (b), there shall be~~
6 ~~prepared and included in the ballot material provided to each voter,~~
7 ~~an impartial analysis pursuant to Section 9160 or 9280 of the~~
8 ~~Elections Code, arguments and rebuttals, if any, pursuant to~~
9 ~~Sections 9162 to 9167, inclusive, and 9190 of the Elections Code~~
10 ~~or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the~~
11 ~~Elections Code.~~

12 ~~(b) If the vote is to be by the landowners of the proposed district,~~
13 ~~analysis and arguments may be waived with the unanimous consent~~
14 ~~of all the landowners and shall be so stated in the order for the~~
15 ~~election.~~

16 SEC. 19. Section 53395.21 is added to the Government Code,
17 to read:

18 53395.21. (a) If an infrastructure financing plan contains a
19 provision that provides for the division of taxes of any affected
20 taxing entity, a public accountability committee shall be established
21 pursuant to this section.

22 (b) A public accountability committee shall be comprised of a
23 representative of each affected taxing entity that has agreed to the
24 division of its taxes, a representative of the public financing
25 authority, and one or more public members.

26 (c) The legislative body of each affected taxing entity and the
27 legislative body of the public financing authority shall each appoint
28 one of its members, or their designee, to the public accountability
29 committee. Those persons appointed pursuant to this subdivision
30 shall, by lot, appoint one or more public members to ensure that
31 the public accountability committee consists of an odd number of
32 members for voting purposes.

33 (d) All meetings with the public accountability committee shall
34 be noticed in accordance with Section 54956.

35 (e) The purposes of the public accountability committee shall
36 be to conduct or have conducted an annual performance review
37 and an annual independent financial review of the public financing
38 authority. The costs of the audits required pursuant to this
39 subdivision shall be paid from revenues of the public financing
40 authority.

1 SEC. 20. Section 53395.22 of the Government Code is
2 repealed.

3 ~~53395.22. (a) If the election is to be conducted by mail ballot,~~
4 ~~the election official conducting the election shall provide ballots~~
5 ~~and election materials pursuant to subdivision (d) of Section 53326~~
6 ~~and Section 53327, together with all supplies and instructions~~
7 ~~necessary for the use and return of the ballot.~~

8 ~~(b) The identification envelope for return of mail ballots used~~
9 ~~in landowner elections shall contain the following:~~

10 ~~(1) The name of the landowner.~~

11 ~~(2) The address of the landowner.~~

12 ~~(3) A declaration, under penalty of perjury, stating that the voter~~
13 ~~is the owner of record or the authorized representative of the~~
14 ~~landowner entitled to vote and is the person whose name appears~~
15 ~~on the identification envelope.~~

16 ~~(4) The printed name and signature of the voter.~~

17 ~~(5) The address of the voter.~~

18 ~~(6) The date of signing and place of execution of the declaration~~
19 ~~pursuant to paragraph (3).~~

20 ~~(7) A notice that the envelope contains an official ballot and is~~
21 ~~to be opened only by the canvassing board.~~

22 SEC. 21. Section 53395.23 of the Government Code is
23 repealed.

24 ~~53395.23. After the canvass of returns of any election pursuant~~
25 ~~to Section 53395.20, the legislative body may, by ordinance, adopt~~
26 ~~the infrastructure financing plan and create the district with full~~
27 ~~force and effect of law, if two-thirds of the votes upon the question~~
28 ~~of creating the district are in favor of creating the district.~~

29 SEC. 22. Section 53395.24 of the Government Code is
30 repealed.

31 ~~53395.24. After the canvass of returns of any election~~
32 ~~conducted pursuant to Section 53395.20, the legislative body shall~~
33 ~~take no further action with respect to the proposed infrastructure~~
34 ~~financing district for one year from the date of the election if the~~
35 ~~question of creating the district fails to receive approval by~~
36 ~~two-thirds of the votes cast upon the question.~~

37 SEC. 23. Section 53395.25 of the Government Code is
38 repealed.

39 ~~53395.25. The legislative body may submit a proposition to~~
40 ~~establish or change the appropriations limit, as defined by~~

1 subdivision (h) of Section 8 of Article XIII B of the California
2 Constitution, of a district to the qualified electors of a proposed
3 or established district. The proposition establishing or changing
4 the appropriations limit shall become effective if approved by the
5 qualified electors voting on the proposition and shall be adjusted
6 for changes in the cost of living and changes in populations, as
7 defined by subdivisions (b) and (c) of Section 7901, except that
8 the change in population may be estimated by the legislative body
9 in the absence of an estimate by the Department of Finance, and
10 in accordance with Section 1 of Article XIII B of the California
11 Constitution. For purposes of adjusting for changes in population,
12 the population of the district shall be deemed to be at least one
13 person during each calendar year. Any election held pursuant to
14 this section may be combined with any election held pursuant to
15 Section 53395.20 in any convenient manner.

16 SEC. 24. Section 53396 of the Government Code is amended
17 to read:

18 53396. Any infrastructure financing plan may contain a
19 provision that taxes, if any, levied upon taxable property in the
20 area included within the infrastructure financing district each year
21 by or for the benefit of the State of California, or any affected
22 taxing entity after the effective date of the *ordinance resolution*
23 adopted pursuant to Section ~~53395.23~~ 53395.20 to create the
24 district, shall be divided as follows:

25 (a) That portion of the taxes ~~which~~ *that* would be produced by
26 the rate upon which the tax is levied each year by or for each of
27 the affected taxing entities upon the total sum of the assessed value
28 of the taxable property in the district as shown upon the assessment
29 roll used in connection with the taxation of the property by the
30 affected taxing entity, last equalized prior to the effective date of
31 the *ordinance resolution* adopted pursuant to Section ~~53395.23~~
32 53395.20 to create the district, shall be allocated to, and when
33 collected shall be paid to, the respective affected taxing entities as
34 taxes by or for the affected taxing entities on all other property are
35 paid.

36 (b) That portion of the levied taxes each year specified in the
37 adopted infrastructure financing plan for the city and each affected
38 taxing entity ~~which~~ *that* has agreed to participate pursuant to
39 Section 53395.19 in excess of the amount specified in subdivision
40 (a) shall be allocated to, and when collected shall be paid into a

1 special fund of, the district for all lawful purposes of the district.
2 Unless and until the total assessed valuation of the taxable property
3 in a district exceeds the total assessed value of the taxable property
4 in the district as shown by the last equalized assessment roll
5 referred to in subdivision (a), all of the taxes levied and collected
6 upon the taxable property in the district shall be paid to the
7 respective affected taxing entities. When the district ceases to exist
8 pursuant to the adopted infrastructure financing plan, all moneys
9 thereafter received from taxes upon the taxable property in the
10 district shall be paid to the respective affected taxing entities as
11 taxes on all other property are paid.

12 SEC. 25. Section 53397.1 of the Government Code is amended
13 to read:

14 53397.1. ~~The legislative body~~ *public financing authority* may,
15 by majority vote, ~~initiate proceedings to issue~~ *authorize the*
16 *issuance of* bonds pursuant to this chapter by adopting a resolution
17 ~~stating its intent to issue the bonds.~~

18 SEC. 26. Section 53397.2 of the Government Code is amended
19 to read:

20 53397.2. The resolution adopted pursuant to Section 53397.1
21 shall contain all of the following information:

22 (a) A description of the facilities to be financed with the
23 proceeds of the ~~proposed~~ bond issue.

24 (b) The estimated cost of the facilities, the estimated cost of
25 preparing and issuing the bonds, and the principal amount of the
26 ~~proposed~~ bond issuance.

27 (c) The maximum interest rate and discount on the ~~proposed~~
28 bond issuance.

29 ~~(d) The date of the election on the proposed bond issuance and~~
30 ~~the manner of holding the election.~~

31 ~~(e)~~

32 (d) A determination of the amount of tax revenue available or
33 estimated to be available, for the payment of the principal of, and
34 interest on, the bonds.

35 ~~(f)~~

36 (e) A finding that the amount necessary to pay the principal of,
37 and interest on, the ~~proposed~~ bond issuance will be less than, or
38 equal to, the amount determined pursuant to subdivision ~~(e)~~ (d).

39 (f) *The issuance of the bonds in one or more series.*

40 (g) *The date the bonds will bear.*

1 (h) *The denomination of the bonds.*

2 (i) *The form of the bonds.*

3 (j) *The manner and execution of the bonds.*

4 (k) *The medium of payment in which the bonds are payable.*

5 (l) *The place or manner of payment and any requirements for*
6 *registration of the bonds.*

7 (m) *The terms or call of redemption, with or without premium.*

8 SEC. 27. Section 53397.4 of the Government Code is repealed.

9 ~~53397.4. The clerk of the legislative body shall publish the~~
10 ~~resolution adopted pursuant to Section 53397.1 once a day for at~~
11 ~~least seven successive days in a newspaper published in the city~~
12 ~~or county at least six days a week, or at least once a week for two~~
13 ~~successive weeks in a newspaper published in the city or county~~
14 ~~less than six days a week.~~

15 ~~If there are no newspapers meeting these criteria, the resolution~~
16 ~~shall be posted in three public places within the territory of the~~
17 ~~district for two succeeding weeks.~~

18 SEC. 28. Section 53397.5 of the Government Code is repealed.

19 ~~53397.5. The legislative body shall submit the proposal to issue~~
20 ~~the bonds to the voters who reside within the district. The election~~
21 ~~shall be conducted in the same manner as the election to create the~~
22 ~~district pursuant to Section 53395. 20 and the two elections may~~
23 ~~be consolidated.~~

24 SEC. 29. Section 53397.6 of the Government Code is repealed.

25 ~~53397.6. (a) The bonds may be issued if two-thirds of the~~
26 ~~voters voting on the proposition vote in favor of issuing the bonds.~~

27 ~~(b) If the voters approve the issuance of the bonds as provided~~
28 ~~by subdivision (a), the legislative body shall proceed with the~~
29 ~~issuance of the bonds by adopting a resolution which shall provide~~
30 ~~for all of the following:~~

31 ~~(1) The issuance of the bonds in one or more series.~~

32 ~~(2) The principal amount of the bonds, which shall be consistent~~
33 ~~with the amount specified in subdivision (b) of Section 53397.2.~~

34 ~~(3) The date the bonds will bear.~~

35 ~~(4) The date of maturity of the bonds.~~

36 ~~(5) The denomination of the bonds.~~

37 ~~(6) The form of the bonds.~~

38 ~~(7) The manner of execution of the bonds.~~

39 ~~(8) The medium of payment in which the bonds are payable.~~

- 1 ~~(9) The place or manner of payment and any requirements for~~
2 ~~registration of the bonds.~~
3 ~~(10) The terms of call or redemption, with or without premium.~~
4 SEC. 30. Section 53397.7 of the Government Code is repealed.
5 ~~53397.7. If any proposition submitted to the voters pursuant~~
6 ~~to this chapter is defeated by the voters, the legislative body shall~~
7 ~~not submit, or cause to be submitted, a similar proposition to the~~
8 ~~voters for at least one year after the first election.~~